

DRAFT

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
ENVIRONMENTAL IMPROVEMENT BOARD
HAROLD RUNNELS BUILDING
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502-6110
(505) 827-2425 Phone
(505) 827-2836 Fax

MINUTES OF THE JANUARY 10, 2003 MEETING

The January meeting of the Environmental Improvement Board (EIB) was held at the City of Bayard Community Center in Silver City, New Mexico on January 10, 2003. Chairperson Dr. Hilary A. Noskin called the meeting to order at approximately 9:30 a.m.

Item # 1 Roll Call

Members Present: Ms. Cynthia Mojtabai
Mr. Cliff P. Brunson
Dr. Hilary Noskin
Mr. William F. Brainerd

Item # 2 Approval of the Agenda

Ms. Mojtabai recommended moving item #9 after item #2 and before item #3. Item #9 would become item #2.5.

ACTION: **Ms. Mojtabai made a motion to approve the agenda as amended. Mr. Brainerd seconded. Motion carried unanimously.**

Item #2.5 Discussion and possible action on Court of Appeals order and applicant motion, Air Quality Permit No. 325-M-9, Intel Corporation, EIB No. 00-06(A).

ACTION: **Ms. Mojtabai made a motion to go into Executive Session to discuss Air Quality Permit No.325-M-9, Intel Corporation, EIB No. 00-06(A), pursuant to 10-15-1(3). Mr. Brunson seconded. A roll call vote was taken at this and the results are as follows:**

Dr. Noskin	Yes
Ms. Mojtabai	Yes
Mr. Brunson	Yes
Mr. Brainerd	Yes

Motion carried unanimously.

ACTION: **Mr. Brainerd made a motion to go come out of Executive Session Mr. Brunson seconded. A roll call vote was taken and the results are as follows:**

Dr. Noskin	Yes
Ms. Mojtabai	Yes
Mr. Brainerd	Yes
Mr. Brunson	Yes

Motion carried unanimously.

ACTION: **Mr. Brainerd made a motion that the Board only discussed the matter regarding Intel Corporation and noted no final actions was taken. Mr. Brunson seconded. A roll call vote was taken and the results are as follows:**

Dr. Noskin	Yes
Ms. Mojtabai	Yes
Mr. Brainerd	Yes
Mr. Brunson	Yes

Dr. Noskin informed the Board that a motion by Southwest Organization Project to reclude Board Member Noskin for her participation in these proceedings.

ACTION: **Mr. Brainerd made a motion to deny Southwest Organization Projects motion. Mr. Brunson seconded. A roll call vote was taken and the results are as follows:**

Mr. Brunson	Yes
Mr. Brainerd	Yes
Ms. Mojtabai	Yes
Dr. Noskin	Abstain

Motion carried with 1 abstention.

Mr. Roderick Ventura, Counsel for Southwest Organization Projects, made 2 points to the Board.

1. Requests the Board rejects Intel's proposed amended final order for the following reasons:
 - a. Intel submitted the amended final order, and SWOP feels it should be the EIB to explain the decision
 - b. Factual errors.
 - c. Dr. Noskin has a conflict of interest.
2. Board Members are not the same Board Members that sat through the Hearing.

Mr. Lou Rose, Counsel for Intel, requested the Board review the proposed order and adopt what the Board feels is appropriate.

Eric Ames, Counsel for the Department, urged the Board to address mandate by adopting the final order.

ACTION: **Mr. Brainerd made a motion to deny the proposed amended final order submitted by Department and Intel. Mr. Brunson seconded. A roll call was taken and the results are as follows:**

Mr. Brainerd	Yes
Mr. Brunson	Yes
Ms. Mojtabai	Yes
Dr. Noskin	Yes

Motion carried unanimously.

Dr. Noskin stated that the Board has proposed Supplemental Findings in the matter of the petition for an appeal hearing on Air Quality Permit No. 325-M-9, Intel Corporation. (EIB 00-06A) and read them to the audience.

ACTION: **Ms. Mojtabai made a motion to adopt the supplemental finding as presented in this matter. Mr. Brainerd seconded. A roll call was taken and the results are as follows:**

Mr. Brainerd	Yes
Mr. Brunson	Yes
Ms. Mojtabai	Yes
Dr. Noskin	Yes

Motion carried unanimously.

Item #3 **Approval of the October 11, 2002 Meeting Minutes.**

ACTION: **Mr. Brunson made a motion to approve the Minutes of the October 11, 2002 meeting as presented. Ms. Mojtabai seconded. Motion carried unanimously.**

Item #4 **Decision on settlement of appeal of the Air Quality Operating Permit No. P208L, by the Waste Management of New Mexico, Inc. (EIB 02-12P)**

ACTION: **Ms. Mojtabai moved to approve the settlement of appeal of Air Quality Operating Permit No. P208L, by the Waste Management of New Mexico, Inc. (EIB 02-12P). Mr. Brainerd seconded. A roll call vote was taken and the results are as follows:**

Mr. Brainerd	Yes
Mr. Brunson	Yes
Ms. Mojtabai	Yes
Dr. Noskin	Yes

Motion carried unanimously.

Item #5 Petition by Petroleum Storage Tank Bureau – In the matter of setting for hearing Proposed Amendments to 20.5 NMAC (EIB 02-17)

Mr. Jerry Schoeppner, Chief of the Petroleum Storage Tank Bureau, requested that the Board set two separate hearings, which will last two days each, to approve the Proposed Amendment to 20.5 NMAC. The first date Mr. Schoeppner is requesting is May 8–9, 2003 to discuss Part 1 and Parts 4 thru 8. The second date requested is June 12-13, 2003 to discuss Part 1 and Parts 9 thru 16.

ACTION: Ms. Mojtabai made a motion to set hearing dates for May 8 – 9, 2003 to discuss Parts 1 & 4-8 and June 12-13, 2003 to discuss Parts 1 & 9-16. Mr. Brainerd seconded. Motion carried unanimously.

Item #6 Petition by Sid Richardson Energy Services, LTD – In the matter of setting for hearing to consider Proposed Regulatory Revisions to the following Air Quality regulation: 20.2.77 NMAC & 20.2.82 NMAC. (EIB 02-16)

Eric Ames, Counsel for the Department, informed the Board that the Department and Sid Richardson have filed a joint motion to stay the hearing and extend the time of the Department's time to answer to petition pending the outcome of the 2 rulemaking petitions which have been filed by the Department and the Industry Working Group.

ACTION: Mr. Brainerd made a motion stay the hearing and extend the hearing until 30 days after the regulations have been determined. Mr. Brunson seconded. Motion carried unanimously.

Item #7 Petition by the Environment Department – In the matter of setting for hearing to consider Proposed Regulatory Revisions to the following Air Quality Regulations: 20.2.77 NMAC & 20.2.82 NMAC. (EIB 02-16)

Gail Cook requested a hearing be set to consider Proposed Regulatory Revision to Air Quality Regulations: 20.2.77 NMAC & 20.2.82 NMAC. (EIB 02-16)

ACTION: Ms. Mojtabai made a motion to set a hearing to consider Proposed Regulatory Revision to Air Quality Regulations 20.2.44 NMAC & 20.2.82 NMAC for April 11, 2003. Mr. Brunson seconded. Motion carried unanimously.

ACTION: **Ms. Mojtabai made a motion to change the 60 day notice to a 30 day notice. Mr. Brunson seconded. Motion carried unanimously.**

Item #8 **Petition by the Radiation Control Bureau – In the matter of setting for hearing to consider changes to Parts 1, 3, 4, 12, 13 and 15, 20.3 NMAC, New Mexico Radiation Protection Regulations.**

Mr. Bill Floyd, Program Manager for the Radiation Control Bureau requested a hearing be set for April 11, 2003 to consider changes to Parts 1, 3, 4, 12, 13 and 15, 20.3 NMAC.

ACTION: **Ms. Mojtabai made a motion to set a hearing to consider changes to Parts 1, 3, 4, 12, 13 and 15, 20.3 NMAC for April 11, 2003. Mr. Brunson seconded. Motion carried unanimously.**

Item #10 **Motion to Vacate Hearing on the IWG/NMED Rulemaking Petitions regarding 20.2.70 NMAC. (EIB 02-03 & EIB 02-09)**

Eric Ames, Counsel for the Department request that the Board Vacate the hearing on the IWG/NMED Rulemaking Petitions regarding 20.2.70 NMAC (EIB 02-03 & EIB 02-09) and requested that this hearing not be rescheduled until after the Legislative Session. Mr. Ames noted that there are no objections by other parties.

ACTION: **Ms. Mojtabai made a motion to vacate the hearing on the IWG/NMED Rulemaking Petitions regarding 20.2.70 NMAC (EIB 02-03 & EIB 02-09). Mr. Brainerd seconded. A roll call vote was taken and the results are as follows:**

Mr. Brunson	Yes
Mr. Brainerd	Yes
Dr. Noskin	Yes
Ms. Mojtabai	Yes

Motion carried unanimously.

Item #11: **Hearing of and possible decision in the Matter of the Petition for Hearing on the Air Quality Permit No. 42-M3 – Dicaperl Minerals Corporation. (EIB 02-11P)**

ACTION: **Mr. Brainerd made a motion to appoint Ms. Cynthia Mojtabai as hearing officer for the Dicaperl Minerals Corporation (EIB 02-11P). Mr. Brunson seconded. Motion carried unanimously.**

Hearing Officer Mojtabai announced the order of the hearing and noted the hearing is now in session. A court reported was not present, therefore, the hearing was tape recorded.

Hearing Officer Mojtabai concluded the hearing and noted the record is now closed.

ACTION: **Mr. Brainerd made a motion that the Board approve the permit as modified at the hearing today. Mr. Brunson seconded. A roll call vote was taken and the results are as follows:**

Ms. Mojtabai	Yes
Dr. Noskin	Yes
Mr. Brunson	Yes
Mr. Brainerd	Yes

Motion carried unanimously.

Item #12: **Hearing of and possible decision in the Matter of Proposed Re-designation of Grant County to Attainment for the National Ambient Air Quality Standard for Sulfur Dioxide (EIB 02-08).**

ACTION: **Mr. Brainerd made a motion to appoint Ms. Cynthia Mojtabai as hearing officer in the matter of proposed re-designation of Grant County to Attainment for the National Ambient Air Quality Standard for Sulfur Dioxide EIB 02-08. Mr. Brunson seconded. Motion carried unanimously.**

Hearing Officer Mojtabai called this hearing to order and noted that a court reporter was present and this hearing would not be tape-recorded.

Hearing Officer Mojtabai concluded the hearing and noted the record is now closed.

ACTION: **Mr. Brunson made a motion to approve the re-designation of Grant County to Attainment for the National Ambient Air Quality Standard for Sulfur Dioxide. Ms. Mojtabai seconded. A roll call was taken and the results are as follows:**

Mr. Brainerd	Yes
Mr. Brunson	Yes
Ms. Mojtabai	Yes
Dr. Noskin	Yes

Motion carried unanimously.

Item # 13 Other Business

- Sandra Ely, Rita Trujillo, & Erik Aaboe of the Air Quality Bureau did a presentation to the Board regarding NSR Permit Fees. Items discussed were as follows:
 - o Time-to-Issue Comparison Metrics for NSR Permits.
 - o Part 75 History.
 - o Projected vs. Actual Fees Collected.
 - o Instituted Time Tracking.
 - o Big Picture Results.

- Hours Tracked and Fees Charged for Specific Permitting Actions.
- Processing Costs.

Item #14 Next Meeting

The next meeting of the Board will be February 14, 2002 in Albuquerque, NM at 9:30am.

Item #15 Adjourn

ACTION: Ms. Mojtabai made a motion to adjourn. Mr. Brunson seconded.
Motion carried unanimously.